



House of Representatives

General Assembly

File No. 34

January Session, 2011

House Bill No. 6096

House of Representatives, March 7, 2011

The Committee on Labor and Public Employees reported through REP. ZALASKI of the 81st Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT PRESERVING GOOD CAUSE FOR LATE FILING OF CERTAIN UNEMPLOYMENT COMPENSATION APPEALS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-273 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2011*):

4 (a) (1) Any person who, through error, has received any sum as
5 benefits under this chapter while any condition for the receipt of
6 benefits imposed by this chapter was not fulfilled in his case, or has
7 received a greater amount of benefits than was due him under this
8 chapter, shall be charged with an overpayment of a sum equal to the
9 amount so overpaid to him, provided such error has been discovered
10 and brought to his attention within one year of the date of receipt of
11 such benefits. A person whose receipt of such a sum was not due to
12 fraud, wilful misrepresentation or wilful nondisclosure by himself or
13 another shall be entitled to a hearing before an examiner designated by
14 the administrator. Such examiner shall determine whether: (A) Such

15 person shall repay such sum to the administrator for the
16 Unemployment Compensation Fund, (B) such sum shall be recouped
17 by offset from such person's unemployment benefits, or (C) repayment
18 or recoupment of such sum would defeat the purpose of the benefits or
19 be against equity and good conscience and should be waived. In any
20 case where the examiner determines that such sum shall be recouped
21 by offset from a person's unemployment benefits, the deduction from
22 benefits shall not exceed fifty per cent of the person's weekly benefit
23 amount. Where such offset is insufficient to recoup the full amount of
24 the overpayment, the claimant shall repay the remaining amount in
25 accordance with a repayment schedule as determined by the examiner.
26 If the claimant fails to repay according to the schedule, the
27 administrator may recover such overpayment through a wage
28 execution against the claimant's earnings upon his return to work in
29 accordance with the provisions of section 52-361a. Any person with
30 respect to whom a determination of overpayment has been made,
31 according to the provisions of this subsection, shall be given notice of
32 such determination and the provisions for repayment or recoupment
33 of the amount overpaid. No repayment shall be required and no
34 deduction from benefits shall be made until the determination of
35 overpayment has become final.

36 (2) The determination of overpayment shall be final unless the
37 claimant, within twenty-one days after notice of such determination
38 was mailed to him at his last-known address, files an appeal from such
39 determination to a referee, except that any such appeal that is filed
40 after such twenty-one-day period may be considered to be timely filed
41 if the filing party shows good cause, as defined in regulations adopted
42 pursuant to section 31-249h, for the late filing. If the last day for filing
43 an appeal falls on any day when the offices of the Employment
44 Security Division are not open for business, such last day shall be
45 extended to the next business day. If any such appeal is filed by mail,
46 the appeal shall be considered timely filed if the appeal was received
47 within such twenty-one-day period or bears a legible United States
48 postal service postmark that indicates that within such twenty-one-day
49 period the appeal was placed in the possession of postal authorities for

50 delivery to the appropriate office. Posting dates attributable to private
51 postage meters shall not be considered in determining the timeliness of
52 appeals filed by mail. [If the last day for filing an appeal falls on any
53 day when the offices of the Employment Security Division are not
54 open for business, such last day shall be extended to the next business
55 day.]

56 (3) The appeal shall be heard in the same manner provided in
57 section 31-242 for an appeal from the decision of an examiner on a
58 claim for benefits. Any party aggrieved by the decision of the referee,
59 including the administrator, may appeal to the Employment Security
60 Board of Review in the manner provided in section 31-249. Decisions
61 of the board may be appealed to the Superior Court in the manner
62 provided in section 31-249b. The administrator is authorized, eight
63 years after the payment of any benefits described in this subsection, to
64 cancel any claim for such repayment or recoupment which in his
65 opinion is uncollectible. Effective January 1, 1996, and annually
66 thereafter, the administrator shall report to the joint standing
67 committee of the General Assembly having cognizance of matters
68 relating to finance, revenue and bonding and the joint standing
69 committee of the General Assembly having cognizance of matters
70 relating to labor and public employees, the aggregate number and
71 value of all such claims deemed uncollectible and therefore cancelled
72 during the previous calendar year. Any determination of overpayment
73 made under this section which becomes final may be enforced by a
74 wage execution in the same manner as a judgment of the Superior
75 Court when the claimant fails to pay according to his repayment
76 schedule. The court may issue a wage execution upon any final
77 determination of overpayment in the same manner as in cases of
78 judgments rendered in the Superior Court, and upon the filing of an
79 application to the court for an execution, the administrator shall send
80 to the clerk of the court a certified copy of such determination.

81 Sec. 2. Subdivision (3) of subsection (b) of section 31-273 of the
82 general statutes is repealed and the following is substituted in lieu
83 thereof (*Effective October 1, 2011*):

84 (3) Any person charged with the fraudulent receipt of benefits or the
85 making of a fraudulent claim, as provided in this subsection, shall be
86 entitled to a hearing before the administrator, or a deputy or
87 representative designated by the administrator. Notice of the time and
88 place of such hearing, and the reasons for such hearing, shall be given
89 to the person not less than five days prior to the date appointed for
90 such hearing. The administrator shall determine, on the basis of facts
91 found by the administrator, whether or not a fraudulent act subject to
92 the penalties of this subsection has been committed and, upon such
93 finding, shall fix the penalty for any such offense according to the
94 provisions of this subsection. Any person determined by the
95 administrator to have committed fraud under the provisions of this
96 section shall be liable for repayment to the administrator of the
97 Unemployment Compensation Fund for any benefits determined by
98 the administrator to have been collected fraudulently, as well as any
99 other penalties assessed by the administrator in accordance with the
100 provisions of this subsection. Until such liabilities have been met to the
101 satisfaction of the administrator, such person shall forfeit any right to
102 receive benefits under the provisions of this chapter. Notification of
103 such decision and penalty shall be mailed to such person's last known
104 address and shall be final unless such person files an appeal not later
105 than twenty-one days after the mailing date of such notification, except
106 that (A) any such appeal that is filed after such twenty-one-day period
107 may be considered to be timely filed if the filing party shows good
108 cause, as defined in regulations adopted pursuant to section 31-249h,
109 for the late filing, (B) if the last day for filing an appeal falls on any day
110 when the offices of the Employment Security Division are not open for
111 business, such last day shall be extended to the next business day, and
112 (C) if any such appeal is filed by mail, the appeal shall be considered
113 timely filed if the appeal was received within such twenty-one-day
114 period or bears a legible United States postal service postmark that
115 indicates that within such twenty-one-day period the appeal was
116 placed in the possession of postal authorities for delivery to the
117 appropriate office. Posting dates attributable to private postage meters
118 shall not be considered in determining the timeliness of appeals filed

119 by mail. [If the last day for filing an appeal falls on any day when the
120 offices of the Employment Security Division are not open for business,
121 such last day shall be extended to the next business day.] Such appeal
122 shall be heard by a referee in the same manner provided in section 31-
123 242 for an appeal from the decision of an examiner on a claim for
124 benefits. The manner in which such appeals shall be heard and appeals
125 taken therefrom to the board of review and then to the Superior Court,
126 either by the administrator or the claimant, shall be in accordance with
127 the provisions set forth in section 31-249 or 31-249b, as the case may be.
128 Any determination of overpayment made under this subsection which
129 becomes final on or after October 1, 1995, may be enforced in the same
130 manner as a judgment of the Superior Court when the claimant fails to
131 pay according to the claimant's repayment schedule. The court may
132 issue execution upon any final determination of overpayment in the
133 same manner as in cases of judgments rendered in the Superior Court;
134 and upon the filing of an application to the court for an execution, the
135 administrator shall send to the clerk of the court a certified copy of
136 such determination.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2011	31-273(a)
Sec. 2	October 1, 2011	31-273(b)(3)

LAB *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill allows appeals of certain unemployment compensation decisions to the Department of Labor (DOL). As this is not anticipated to result in additional appeals, there is no state or municipal fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**HB 6096*****AN ACT PRESERVING GOOD CAUSE FOR LATE FILING OF CERTAIN UNEMPLOYMENT COMPENSATION APPEALS.*****SUMMARY:**

This bill extends the deadline to appeal certain unemployment compensation decisions if the appealing party (1) can show “good cause” for the delay in appealing or (2) has an appeal filed by mail postmarked prior to the deadline (see BACKGROUND). Appeals postmarked by private postage meters do not qualify for the extension. The extension applies to decisions finding (1) overpayment of unemployment benefits, (2) receipt of such benefits through fraud, or (3) false claims for benefits.

Under the bill, good cause exists for filing delays when a reasonably prudent individual under the same or similar circumstances would have been prevented from filing a timely appeal. The factors used in determining good cause include:

1. whether the claimant was represented;
2. the claimant’s familiarity with the appeals procedures;
3. administrative error or the failure of another party to discharge its responsibilities;
4. factors outside the claimant’s control that prevented a timely action; and
5. whether the claimant acted diligently in filing the appeal once the reason for the late filing no longer existed (Conn. Agencies Reg., § 31-237g-15).

The bill also continues the current practice of extending to the next business day filing deadlines that fall on a day that the Employment Security Division is closed.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

The law allows 21 days for claimants to appeal a determination that they received more benefits than they were entitled to receive, received benefits through fraud, or made a false claim for benefits. The time limit begins when the determination notice is mailed to the claimant.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 11 Nay 0 (02/24/2011)